Convention on the Rights of the Child

Distr.: General
26 October 2017

Original: English

Committee on the Rights of the Child

Concluding observations on the report submitted by Guinea under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*

I. Introduction

1. The Committee considered the report of Guinea (CRC/C/OPSC/GIN/1) at its 2243rd meeting (see CRC/C/SR.2243), held on 25 September 2017, and adopted the present concluding observations at its 2251st meeting (see CRC/C/SR.2251), held on 29 September 2017.

2. The Committee welcomes the submission of the report of the State party and the written replies to the list of issues (CRC/C/OPSC/GIN/Q/1/Add.1). The Committee expresses appreciation for the constructive dialogue held with the multisectoral delegation of the State party.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the second periodic report submitted by the State party under the Convention (CRC/C/GIN/CO/2), adopted on 13 June 2013, and on the report of the State party submitted under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/GIN/CO/1), adopted on 29 September 2017.

II. General observations

Positive aspects

4. The Committee notes with appreciation the State party's ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 8 April 2016.

5. The Committee further notes with appreciation the progress achieved in the creation of institutions, the adoption of national plans and programmes and the establishment of various bodies that facilitate the implementation of the Optional Protocol, including:

(a) The national policy for the promotion and protection of the rights and welfare of the child in Guinea in 2015 and its first three-year plan for the period 2017-2019 in 2016;

(b) The cooperation protocol between Guinea and Senegal in the framework of the plan of action against trafficking in persons developed by the Economic Community of West African States (ECOWAS) in 2017;

* Adopted by the Committee at its seventy-sixth session (11-29 September 2017).

Please recycle

(c) The reform of the justice sector in 2014;

(d) The International Adoption Committee in 2013;

(e) Children's institutions such as the Children's Parliament of Guinea, which has been conducting advocacy and social mobilization activities with a view to the implementation of the rights of children since 2011;

(f) The Office for the Protection of Gender, Children and Morals in 2009.

III. Data

Data collection

6. The Committee takes note of the collection of sectoral data through the National Institute of Statistics and through the organs of the Guinean child protection system. It is however concerned at the absence of a comprehensive mechanism for the collection of disaggregated data concerning all offences prohibited under the Optional Protocol and especially of data on child prostitution, thus limiting the State party's ability to monitor and evaluate progress regarding such offences.

7. **Recalling its previous concluding observations under the Convention, the Committee urges the State party to:**

(a) **Develop and implement a comprehensive, coordinated and effective data collection system on all areas covered by the Optional Protocol, including on the sale of children, child prostitution, child pornography and illegal adoption, both within the borders of the State party and beyond, so as to allow for an analysis of the situation of children, effective monitoring and an impact assessment of the measures taken. The data should be disaggregated, inter alia, by sex, age, nationality, ethnic origin, geographical region and socioeconomic situation;**

(b) **Allocate the necessary human, technical and financial resources for the effective functioning of the data collection system;**

(c) **Conduct a study on the situation of the sale of children, including its links with child marriage, female genital mutilation, child pornography, child prostitution, child trafficking and irregular migration;**

(d) **Collect data on the number of prosecutions and convictions for offences prohibited under the Optional Protocol, disaggregated by the nature of the offence.**

IV. General measures of implementation

A. Legislation

8. The Committee notes that the Children's Code prohibits trafficking in children and pornographic material involving children. It is however concerned that the legislation of the State party does not define or criminalize all cases of the sale of children, including forced labour, an offence that is similar but not identical to trafficking in persons. The Committee is also concerned that the Criminal Code does not criminalize child prostitution and child pornography, as referred to in articles 2 and 3 of the Optional Protocol. It is further concerned at delays in the harmonization of the Children's Code with the new Criminal Code, resulting in contradictory dispositions on applicable sanctions.

9. **The Committee recommends that the State party ensure, through the ongoing revision of its national legislation, that all acts and activities referred to in the Optional Protocol are fully covered under the Children's Code and criminal law, including all forms of the sale of children, child prostitution and child pornography. It further recommends that the State party accelerate the harmonization of the Children's Code with the new Criminal Code.**

B. Policy and overall strategy

10. The Committee is concerned at the lack of strategic action for the prevention of the sale of children, child prostitution and child pornography, and the protection of child victims of sexual exploitation through its national policy for the promotion and protection of the rights and welfare of the child in Guinea. It is further concerned at the limited commitment of implementing partners to the objectives of the policy.

11. **The Committee recommends that the State party revise the national policy for the promotion and protection of the rights and welfare of the child in Guinea to incorporate the fight against the sale of children, child prostitution and child pornography. In that context, the State party should take account of the results of the World Congress against the Sexual Exploitation of Children for Commercial Purposes. The Committee also recommends that the State party reinforce collaboration between all the actors concerned for the revision and implementation of the objectives of the national policy for the promotion and protection of the rights and welfare of the child in Guinea.**

C. Coordination and evaluation

12. The Committee takes note of the establishment of mechanisms for intersectoral coordination between the institutions and non-governmental organizations (NGOs) in charge of the implementation of children's rights. It is concerned, however, at the number of institutions, divisions and subdivisions involved in the implementation of the Optional Protocol and at the lack of human, technical and financial resources allocated to the Guinean Committee for Follow-up on the Protection of the Rights of the Child, which is in charge of coordinating and monitoring the implementation of international conventions relating to children's rights at the national level, the National Committee to Combat Trafficking in Persons and the International Adoption Committee.

13. **With reference to its concluding observations under the Convention, the Committee recommends that the State party:**

(a) **Take appropriate measures to guarantee that the Guinean Committee for Follow-up on the Protection of the Rights of the Child can ensure the main coordination of the implementation of children's rights and the provisions of the Optional Protocol, and clearly define the corresponding responsibilities of all the other actors concerned;**

(b) **Strengthen the collaboration between the Committee for follow-up on the Protection of the Rights of the Child and all other institutions, divisions and units involved in the implementation of the Convention and its Optional Protocols;**

(c) **Provide the Committee for Follow-up on the Protection of the Rights of the Child, the National Committee to Combat Trafficking in Persons and the International Adoption Committee with the necessary human, technical and financial resources to ensure the effective monitoring and evaluation of the actions carried out in the application of the Convention and its Optional Protocols in different sectors, at all levels.**

D. Dissemination and awareness-raising

14. The Committee takes note of the initiatives taken to sensitize communities and families to the trafficking and exploitation of children, particularly in the framework of the Month of the Guinean Child and of the International Day of the Girl Child, and welcomes the consequent identification of a number of offences prohibited under the Optional Protocol. It nevertheless regrets that the sexual exploitation of children, the transfer of organs, forced labour, illegal adoption and child pornography are not addressed adequately through awareness-raising activities aimed at the general public.

15. **The Committee encourages the State party to enhance its efforts to disseminate all provisions of the Optional Protocol to the general public, including by:**

(a) **Designing and implementing specific long-term awareness-raising programmes, including in partnership with the media and community leaders, to create an impact at national, regional and local levels, focusing particularly on prevention measures, support programmes and reporting mechanisms for all offences prohibited under the Optional Protocol, including sexual exploitation, the transfer of organs, forced labour, illegal adoption and child pornography;**

(b) **Ensuring that the programmes adopted are subject to follow-up assessments, so that possible gaps may be identified and remedies found;**

(c) **Guaranteeing that the matters falling within the scope of the Optional Protocol are addressed in school curricula at all levels of the educational system, using appropriate media created especially for children.**

E. Training

16. The Committee welcomes the training of intermediary actors on the issue of trafficking in children, such as transporters, and of the armed forces positioned along the borders, as well as the introduction of harmonized training modules on the management of trafficking cases. It nevertheless notes with concern that judges, prosecutors, social workers and investigators in charge of issues relating to trafficking in children have not yet benefited from training on the Optional Protocol and on the corresponding national legislation.

17. **The Committee recommends that the State party strengthen and extend its training activities. It should ensure that the training is multidisciplinary, tackles all the areas covered by the Optional Protocol and its corresponding national legislation, and is systematically provided to all professionals working with and for children, including immigration officers, judges, prosecutors, social workers and the investigators in charge of issues relating to trafficking in children.**

F. Allocation of resources

18. The Committee welcomes the positive developments in State investment in children. However, it notes with concern:

(a) The absence of information on the resources available for the implementation of the national policy for the promotion and protection of the rights and welfare of the child, and the insufficient human, technical and financial resources allocated to monitoring implementation of the provisions of the Optional Protocol by the Office for the Protection of Gender, Children and Morals, the Committee for Follow-up on the Protection of the Rights of the Child, the National Committee to Combat Trafficking in Persons and the International Adoption Committee;

(b) The negative impact that mismanagement of funds and corruption have on the implementation of the Optional Protocol.

19. **The Committee recommends that the State party:**

(a) **Allocate the necessary human, technical and financial resources for the implementation of the national policy for the promotion and protection of the rights and welfare of the child and for the effective functioning of the structures in charge of monitoring and implementing the provisions of the Optional Protocol in all the areas it covers;**

(b) **Strengthen measures to prevent and combat corruption to ensure the availability of resources for the realization of children's rights.**

V. Prevention of the sale of children, child prostitution and child pornography (art. 9 (1) and (2))

A. Measures adopted to prevent offences prohibited under the Optional Protocol

20. The Committee takes note of the definition of a procedure for the identification of children in vulnerable situations through local branches of the child protection system, the establishment of a national resilience and recovery post-Ebola fund and the realization of social and professional integration projects for populations in vulnerable situations. It is however concerned at the inadequacy of the funds allocated to integration projects and at their restricted coverage. It is further concerned at the absence of strategies addressing the root causes of the offences prohibited under the Optional Protocol, especially in the face of:

(a) High household poverty levels, weakened social service structures and a large number of orphans, leading to a high incidence of forced labour of children, including the youngest, in its most serious forms: in the mining industry, domestic work and agriculture, on the streets and in the forcible use of begging children as guides for the blind. It is further concerned at the increase in the sale of children for purposes of sexual exploitation;

(b) The continuation of harmful practices, such as child marriage and female genital mutilation;

(c) The absence of regulation of practices that increase the vulnerability of children, such as *confiage*, and the lack of awareness-raising in communities;

(d) The transnational nature of the practices cited above, in a context of increased emigration of non-accompanied Guinean children towards Europe.

21. **The Committee recommends that the State party:**

(a) **Adopt a comprehensive strategy tackling the root causes and risk factors of the offences prohibited under the Optional Protocol and ensuring the social inclusion of vulnerable children, and allocate sufficient resources for the implementation of the strategy. The strategy should target the most vulnerable children who are likely to become victims of offences prohibited under the Optional Protocol, in particular children from families of victims of the Ebola outbreak, children of disadvantaged families, children with disabilities, children with albinism, twins, married children, children employed as domestic workers, children in street situations, migrant children, refugee children, asylum seekers and undocumented children;**

(b) **Strengthen actions to eliminate harmful practices which amount to the sale of children, paying special attention to groups of children in vulnerable situations;**

(c) **Regulate the practices rendering children vulnerable, such as the informal practice of *confiage*, in order to prevent and protect them from mistreatment and sexual abuse, and raise awareness of those regulations among communities;**

(d) **Intensify international cooperation in the framework of the bilateral and multilateral agreements for the fight against trafficking in children in West Africa and conclude new agreements, including with Sierra Leone, for the prevention and elimination of practices contrary to the provisions of the Optional Protocol.**

B. Adoption

22. The Committee welcomes the establishment of the International Adoption Committee and the actions taken to implement the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. It is, however, concerned at the insufficient resources allocated to the International Adoption Committee and that the Children's Code does not regulate international adoption comprehensively.

23. **The Committee recommends that the State party:**

(a) **Take legal measures and draft guidelines against illegal adoption, raise awareness among the public and ensure that all persons involved in the adoption of a child act in conformity with applicable international legal instruments and in the best interests of the child;**

(b) **Allocate sufficient human, technical and financial resources to the International Adoption Committee for the implementation of the revised Children's Code and ensure its optimal functioning;**

(c) **Strengthen efforts to ensure that all adoptions are fully consistent with the principles and provisions of the Convention on the Rights of the Child, the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption and other relevant international instruments.**

C. Child sex tourism

24. The Committee welcomes the prohibition of sex tourism involving children in the Children's Code. The Committee is nevertheless concerned at the lack of studies and specific data concerning the sexual exploitation of children in travel and tourism.

25. **The Committee urges the State party to engage with the tourism industry on the harmful effects of sexual exploitation of children in travel and tourism, disseminate widely the World Tourism Organization global code of ethics for tourism among travel agents and tourism agencies and encourage those enterprises to become signatories to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism. It also urges the State party to impose appropriate penalties on the perpetrators of the sexual exploitation of children in travel and tourism.**

D. Measures to prevent and address online child sexual exploitation and abuse

26. The Committee is concerned at the absence of a policy preventing online sexual exploitation and abuse, of which children may be victims on the Internet.

27. **With reference to Human Rights Council resolution 31/7, in which the Council addressed information and communications technologies and child sexual exploitation, and to the outcomes of the We Protect Global Alliance to End Child Sexual Exploitation Online summits, held in London in 2014 and in Abu Dhabi in 2015, the Committee recommends that the State party adopt a national response for preventing and addressing online child sexual exploitation and abuse, in close collaboration with relevant industries and organizations, consisting at a minimum of:**

(a) **A national policy to prevent and respond to online child sexual exploitation and abuse through an appropriate legal framework, a dedicated coordination and oversight entity and specific analysis, research and monitoring capabilities;**

(b) **A strategy for preventing online child sexual exploitation and abuse, including a public education programme to raise awareness of online behaviour and safety, and for gaining knowledge of and reporting online child sexual exploitation and abuse offences;**

(c) **A dedicated, proactive, responsive and victim-focused criminal justice system with a trained police force, prosecutors and judiciary, and a national database linked to the International Criminal Police Organization (INTERPOL) database.**

VI. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3, 4 (2) and (3) and 5-7)

A. Existing criminal or penal laws and regulations

28. The Committee welcomes the adoption of the new Criminal Code and Code of Criminal Procedure, and takes note of the harmonization process between the Criminal Code and the Children's Code. However, it is concerned that the new Criminal Code:

(a) Does not criminalize either the sale or the prostitution of children;

(b) Protects children only up to the age of 16 years from "indecent assault" and binds the protection of children over 16 to the condition of being married or not;

(c) Has allowed for the application of lighter sanctions to acts of sale and trafficking in children, such as fines instead of incarceration.

29. **The Committee recommends that the State party amend the Criminal Code in order to:**

(a) **Criminalize the sale and prostitution of children, in line with articles 2 and 3 of the Optional Protocol;**

(b) **Extend the protection of children from "indecent assault" to all children under the age of 18;**

(c) **Ensure that sanctions are proportionate to the seriousness of the offence.**

30. The Committee is further concerned that the Criminal Code:

(a) Does not differentiate between adult offenders and children and that children consensually sharing their own images may be found guilty of producing, providing and disseminating child pornography;

(b) Only criminalizes pornography involving children when shared through an electronic means of communication;

(c) Does not contain a comprehensive definition of pornography.

31. **The Committee recommends that, in line with articles 2 and 3 of the Optional Protocol, the State party, amend its Criminal Code in order to:**

(a) **Decriminalize consensual sharing of self-generated images by children and ensure that children are treated in a manner consistent with the promotion of their sense of dignity and in full conformity with the provisions of the Convention on the Rights of the Child and the Optional Protocol;**

(b) **Develop and strengthen awareness-raising programmes for children on the risks related to the use of self-generated content through digital media and information and communications technologies;**

(c) **Introduce a comprehensive definition of pornography and criminalize child pornography in all its forms.**

B. Impunity

32. The Committee is deeply concerned at the very limited number of investigations, prosecutions and convictions for offences related to the forced begging of children and child prostitution. It is also concerned at the use of mediation for cases of the sexual exploitation and abuse of children. The Committee is further concerned at community leaders and State officials interfering in the judicial processes and at the lack of confidence among the population in the judicial system.

33. **The Committee recommends that the State party take all necessary measures to ensure that:**

(a) **All cases of the sale of children, child prostitution and child pornography are investigated;**

(b) **Mediation is not used in cases of the sexual exploitation and abuse of children;**

(c) **All perpetrators are prosecuted and punished with appropriate sanctions commensurate with the gravity of their crimes;**

(d) **Persons interfering in the judicial process are held accountable.**

C. Liability of legal persons

34. The Committee takes note of plans to introduce the liability of legal persons for human trafficking in the revised Children's Code. It is nevertheless concerned at the absence of provisions on the liability of legal persons in the new Criminal Code.

35. **The Committee recommends that the State party explicitly include the principle of the responsibility of legal persons involved in any of the offences prohibited under the Optional Protocol in the Criminal Code, in accordance with paragraph 4 of article 3 of the Protocol. It also recommends the adoption of laws to regulate the conduct of recruitment agencies and provide penalties proportionate to the seriousness of the offence committed.**

D. Extraterritorial jurisdiction and extradition

36. The Committee takes note of the ratification of the ECOWAS Convention on Mutual Assistance in Criminal Matters and the ECOWAS Convention on Extradition. It welcomes the establishment of extraterritorial jurisdiction through the Children's Code and the new Code of Criminal Procedure, but regrets that extradition is subject to the criterion of double criminality.

37. **The Committee recommends that the State party:**

(a) **Include the offences prohibited under the Optional Protocol in all future extradition treaties;**

(b) **Ensure that extradition for offences prohibited under the Optional Protocol is not hindered by the criterion of double criminality.**

VII. Protection of the rights of child victims (arts. 8 and 9 (3) and (4))

A. Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol

38. The Committee takes note of the provisions of the Children's Code governing the protection of victims and witnesses involved in judicial procedures, but remains concerned at reported cases of threats and intimidation of child victims. It is also concerned that child victims fear for the security of their parents, as they receive threats regarding their parents if they press charges. The Committee is also concerned at the allocation of insufficient resources for legal assistance and tutors, preventing the effective support of child victims through these services, for which the Children's Code provides.

39. **In the light of article 9 (3) of the Optional Protocol and with reference to its concluding observations under the Convention, the Committee recommends that the State party:**

(a) **Ensure that child victims or witnesses of offences prohibited under the Optional Protocol are not revictimized and that evidence such as video recordings of testimonies is always accepted in judicial procedures;**

(b) **Allocate sufficient human, technical and financial resources to ensure that all child victims have access to free legal aid and to support from child psychologists and social workers, and ensure that the best interests of the child are given primary consideration.**

B. Recovery and reintegration of victims

40. The Committee takes note of the development of a national social protection policy. It is however concerned at:

(a) The very limited availability of physical and psychological recovery and social reintegration services;

(b) Most shelters and centres being led by NGOs, with very limited support from the State party;

(c) The absence of procedures for the community-based care of children, the non-application of existing relevant protocols for the care of child victims involved in trafficking and the lack of harmonization of procedures for the identification and protection of child victims of trafficking;

(d) The lack of coordination in the protection and support of child victims of offences prohibited under the Optional Protocol.

41. **The Committee recommends that the State party:**

(a) **Establish a national fund to combat child trafficking and a procedure for the consultation of civil society organizations in the development and monitoring of budgets allocated to the delivery of services for children;**

(b) **In the framework of the national social protection policy, integrate services and centres for the physical and psychological recovery and full reintegration of child victims into the support structures of the child protection system, and provide the necessary human, technical and financial resources for their effective implementation;**

(c) **Define and harmonize procedures for the support of victims of offences under the Protocol and ensure their application through the central and decentralized structures of the child protection system and through community-based services;**

(d) **Promote the close interaction of the national and prefectural structures of the child protection system with the Committee for Follow-up on the Protection of the Rights of the Child, the National Committee to Combat Trafficking in Persons and the International Adoption Committee for the implementation of the national social protection policy and its corresponding procedures.**

VIII. International assistance and cooperation (art. 10)

Multilateral, bilateral and regional agreements

42. **In the light of article 10 (1) of the Optional Protocol, the Committee encourages the State party to continue to strengthen international cooperation through multilateral, regional and bilateral arrangements, especially with neighbouring countries, including by strengthening procedures and mechanisms for coordinating the implementation of such arrangements, with a view to making progress in respect of the prevention of offences covered by the Optional Protocol and the detection, investigation, prosecution and punishment of those responsible for any such offences.**

IX. Ratification of the Optional Protocol on a communications procedure

43. **The Committee recommends that, in order to further strengthen the fulfilment of children's rights, the State party ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.**

X. Implementation and reporting

44. **The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented, including by transmitting them to the relevant ministries, the parliament and national and local authorities, for appropriate consideration and further action.**

45. **The Committee recommends that the report and the written replies to the list of issues submitted by the State party and the present concluding observations be made widely available, including through the media, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate on and awareness of the Optional Protocol and its implementation and monitoring.**

XI. Next periodic report

46. **In accordance with article 12 (2) of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol and the present concluding observations in its next periodic report to be submitted in accordance with article 44 of the Convention.**